

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

| | | |
|--|---|------------------------------------|
| Lillian M. Kessie, |) | Civil Action No. 4:09-2324-JFA-TER |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | REPORT AND RECOMMENDATION |
| |) | |
| Michael J. Astrue, Commissioner |) | |
| of the Social Security Administration, |) | |
| |) | |
| Defendant. |) | |

This action has been brought pursuant to Section 205(g) of the Social Security Act, as amended, 42 U.S.C. §405(g), to obtain judicial review of a “final decision” of the Commissioner of Social Security.¹ After the plaintiff filed her complaint, the defendant filed an answer and transcript on May 20, 2010.(Doc. #23).

The local rules of the District provide that plaintiff’s brief be filed within thirty (30) days of the defendant’s answer. Local Rule 83.VII.04, D.S.C. Accordingly, the plaintiff’s brief was due on or about June 24, 2010. No brief was filed. An Order was issued on June 25, 2010, directing the plaintiff to file her brief within ten (10) days of the date of said order or the case may be dismissed for failure to prosecute pursuant to Rule 41b of the Federal Rules of Civil Procedure, i.e., with prejudice. Plaintiff failed to file her brief.

¹ This case was referred to the undersigned for a report and recommendation pursuant to Local Rule 73.02(B)(2)(a), (D.S.C.).

As of this date, plaintiff has not filed her brief and has presented no argument why the decision by the Commissioner is not supported by substantial evidence. Therefore, it appears that the plaintiff does not wish to continue to prosecute this action.

Accordingly, it is recommended that this action be dismissed pursuant to Fed. R. Civ. Proc. 41(b) of the Federal Rules of Civil Procedure for failure to prosecute and for failure to comply with other Rules and with a court Order.²

s/Thomas E. Rogers, III

Thomas E. Rogers, III

United States Magistrate Judge

July 12, 2010

Florence, South Carolina

The parties' attention is directed to the important information on the attached notice.

² A complaint may be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute and/or failure to comply with orders of the court. Ballard v. Carlson, 882 F.2d 93 (4th Cir. 1989), cert. denied, 493 U.S. 1084 (1990), and Chandler Leasing Corp. v. Lopez, 669 F.2d 919 (4th Cir. 1982). In the present case, the plaintiff is proceeding pro se so she is entirely responsible for her actions. It is solely through plaintiff's neglect, and not that of an attorney, that a brief has not been filed.